

LAW OFFICES OF DAVID S. SECREST  
A Professional Corporation  
David S. Secrest, Esq. [State Bar #142299]  
504 Plaza Alhambra, Suite 201  
P. O. Box 1029  
El Granada, CA 94018-1029  
Tel: 650-726-7461  
Fax: 650-726-7471  
Attorney for Plaintiff  
TIMOTHY SANOCKI

SEYFARTH SHAW LLP  
Michael J. Burns (SBN 172614) mburns@seyfarth.com  
Dana L. Peterson (SBN 178499) dpeterson@seyfarth.com  
Michael J. Burns (SBN 172614) mburns@seyfarth.com  
Adrienne E. Nelson (SBN 209305) anelson@seyfarth.com  
Sharon Ongerth Rossi (SBN 232725) srossi@seyfarth.com  
560 Mission Street, Suite 3100  
San Francisco, California 94105  
Telephone: (415) 397-2823  
Facsimile: (415) 397-8549

Attorneys for Defendants  
SERCO GROUP PLC, SERCO, INC., improperly sued as SERCO, INC.  
DE; RAQUEL SANCHEZ; KEITH HULBERT; and MIKE HENRY

UNITED STATES DISTRICT COURT

IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA

16	TIMOTHY SANOCKI,	)	Case No. CV 08-2740 MHP
		)	
17	Plaintiff,	)	<b>JOINT CASE MANAGEMENT</b>
		)	<b>STATEMENT AND PROPOSED</b>
18	v.	)	<b>ORDER</b>
		)	
19	SERCO GROUP PLC, SERCO, INC. DE,	)	Date: September 8, 2008
	PAUL CARPMAEL, an individual, RAQUEL	)	Time: 4:00 p.m.
20	SANCHEZ, an individual, KEITH HULBERT,	)	Judge: Hon. Marilyn Hall Patel
	an individual, MIKE HENRY, an individual,	)	Place: Courtroom 15, 18th Floor
21	and DOES 1-50, inclusive,	)	
		)	
22	Defendants.	)	
		)	
23		)	

Plaintiff TIMOTHY SANOCKI and Defendants SERCO GROUP PLC, SERCO, INC.,  
improperly sued as SERCO, INC. DE; RAQUEL SANCHEZ; KEITH HULBERT; and MIKE  
HENRY (collectively "Defendants") submit this Joint Case Management Statement and  
Proposed Order and request the Court to adopt it as its Case Management Order in this case.

1 **1. JURISDICTION AND SERVICE**

2 Plaintiff asserts causes of action against corporate defendants- his employer- that he was  
 3 fired for reporting illegal campaign contributions to local political candidates for City Council in  
 4 San Francisco- money laundering- by defendants, who forced employees to contribute cash to a  
 5 candidate to the San Francisco City Council; and for taking an FMLA/CFRA Leave [Cal. Gov.  
 6 Code §81002- Political Reform Act of 1974; CFRA- California Govt. Code §12945.2(a)].  
 7 Plaintiff further asserts causes of action against individual defendants, including one state  
 8 resident, RAQUEL SANCHEZ, for Retaliation in Violation of the CFRA [California Govt. Code  
 9 §§12940(h), 12945.2(l); 2 Cal.C.Reg. §7297.7]; and for Intentional Infliction of Emotional  
 10 Distress.

11 Defendant contends that this Court has subject matter jurisdiction over this lawsuit 28  
 12 U.S.C. § 1332(a)(1), because the parties are citizens of different states and the matter in  
 13 controversy exceeds \$75,000.00, excluding interest and costs. All parties represented herein are  
 14 subject to the Court's jurisdiction. Defendants reserve their right to oppose any motion to  
 15 remand.

16 Plaintiff contends there are two existing, valid causes of action against the individual  
 17 defendant RAQUEL SANCHEZ, negating diversity, and therefore remand is proper.

18 **2. FACTS**

19 **A. Plaintiff's Statement of the Facts**

20 Plaintiff was employed by SERCO as a Contract Manager from January 1997 to his  
 21 termination of employment on February 6, 2007. Plaintiff assumed full responsibility as  
 22 Contract Manager for the day-to-day operations under a parking contract between the City and  
 23 County of San Francisco's Municipal Transportation Authority and SERCO.

24 On October 27, 2006, former Defendant PAUL CARPMAEL instructed Plaintiff and two  
 25 other SERCO employees (Alexiy Sukhenko and Andrew Kang) to provide CARPMAEL with  
 26 personal checks in the form of campaign contributions to prospective politicians- candidates for  
 27 San Francisco's City Council. CARPMAEL tried to reassure Plaintiff that, "according to the  
 28 lobbyist," it was "common practice." Despite his concern, as instructed, Plaintiff made out two

1 (2) \$250.00 checks to "Doug Chan for Supervisor." CARPMAEL then instructed that Plaintiff  
2 "run the expenditure thru company petty cash."

3 In November 2006, Plaintiff reported that CARPMAEL was placing the company at risk  
4 by asking staff to write personal checks so he could, in turn, make unethical/illegal political  
5 campaign contributions to local politicians, making such reports to SERCO Vice-President,  
6 Defendant KEITH HULBERT; SERCO Human Resource Generalist, Defendant RAQUEL  
7 SANCHEZ, SERCO; SERCO Finance Manager Allen Widdowson; and other Human Resources  
8 staff and management staff. Plaintiff's reports seemed, to Plaintiff, to be ignored by SERCO.  
9 Plaintiff's November, 2006 reports to SERCO management constituted protected activity under  
California law, specifically Cal. Gov. Code §81002- Political Reform Act of 1974.

10 On December 5, 2006, Plaintiff made a formal complaint to the SERCO Ethics Hotline to  
11 report CARPMAEL's unethical/illegal political campaign contributions to local politicians.  
12 Plaintiff contacted SERCO Executive Rich Gilligan and explained that he had several incidents  
13 to discuss with him. Plaintiff reported the fact that CARPMAEL had asked staff to write checks  
14 from their personal bank so that he could attend political functions and make financial  
15 contributions on behalf of SERCO. Plaintiff reported the fact that he was instructed by  
16 CARPMAEL to run the costs thru SERCO's petty cash accounts (and in one instance was given  
a fuel receipt to be used in replace of one of the reimbursements).

17 As a result of CARPMAEL's activities in connection with the allegedly unethical/illegal  
18 political campaign contributions, in December, 2006, Plaintiff was caused to become seriously  
19 ill, due to stress. On December 6, 2006, Plaintiff requested, through his health care provider, to  
20 take a medical leave of absence ("LOA") from SERCO. On December 11, 2006, Plaintiff  
21 submitted further medical documentation for his LOA Request from his treating health care  
22 provider. On December 13, 2006, Plaintiff submitted a further application for his LOA Request.

23 While on LOA from SERCO, after making his report to SERCO's Ethics Representative  
24 Richard Gilligan, Plaintiff was advised by SERCO management that the incident was being  
25 taken very seriously, that a committee had been appointed to review the case, and the outcome  
26 was pending. On December 14, 2006, Plaintiff attended a formal meeting regarding his ethics  
27 complaint regarding CARPMAEL's unethical/illegal political campaign contributions at the San  
28 Francisco offices of McKenna Long & Aldridge LLP ("Ethics Complaint Meeting").

1 On December 28, 2006, Plaintiff received from SERCO's authorized agent a denial of  
 2 Plaintiff's LOA Request. SERCO's December 28, 2006 denial of Plaintiff's LOA Request  
 3 asserted that the basis for the denial was: "No documentation was returned to certify the leave."

4 On February 6, 2007, SANCHEZ sent to Plaintiff a notice of Plaintiff's termination from  
 5 employment with SERCO, which stated:

6 Our records indicate that although you have applied for the leave, to date you have not  
 7 provided documentation to certify the leave. Since you did not provide the  
 8 documentation, Serco's third party administrator, Matrix Absence Management Inc., sent  
 9 you a denial of benefits notice on December 28, 2006.

10 Due to realignments of business responsibilities within Serco, we had made the decision  
 11 to eliminate the Contract Manager position in San Francisco shortly before you  
 12 announced your leave in early December. Because you have now exhausted your paid  
 13 leave, we need to move forward with the elimination of the Contract Manager Position  
 14 and formal separation of your employment with Serco. Your status as a Serco employee  
 15 will terminate on February 9, 2007.

16 In fact, public records obtained during this lawsuit indicate that the "Contract Manager  
 17 position" was not eliminated. Additionally, the assertion that Plaintiff had "not provided  
 18 documentation to certify" his LOA is also false.

19 Plaintiff therefore asserts causes of action for Wrongful Termination in Violation of  
 20 Public Policy [Cal. Gov. Code §81002- Political Reform Act of 1974; CORA- California Govt.  
 21 Code §12945.2(a)]; Violation of Rights under the California Family Rights Act ("CORA")  
 22 [California Govt. Code §12945.2(a)]; Discrimination and Discharge in Violation of the CORA  
 23 [California Govt. Code §§12940(h), 12945.2(l); 2 Cal. Code Regs. §7297.7]; Retaliation in  
 24 Violation of the CFRA [California Govt. Code §§12940(h), 12945.2(l); 2 Cal. Code Regs.  
 25 §7297.7]; and Intentional Infliction of Emotional Distress.

## 26 **B. Defendant's Statement of the Facts**

27 Defendants deny Plaintiff's characterization of the events leading up to his termination.  
 28 Serco, Inc. ("Serco") terminated Sanocki's employment because his position was eliminated, and  
 not for any wrongful purpose nor with any wrongful motivation.

Serco provides management services to governments and commercial companies, from  
 management consulting to actually managing programs for the customer. Sanocki worked for  
 Serco as the contract manager for its parking contract with the City of San Francisco. Sanocki  
 alleges that on October 27, 2006, allegedly at the instruction of his supervisor, he made a

1 political contribution to a municipal politician's campaign and was reimbursed from Serco's  
2 petty cash account. Sanocki did not report potentially improper campaign contribution to anyone  
3 at the time.

4 One month later, on November 29, 2006, and without any knowledge of his allegedly  
5 improper political campaign contribution, Serco made the decision to eliminate Sanocki's  
6 position. As a part of the reorganization, Sanocki's supervisor was to take over Sanocki's duties  
7 in addition to his own duties.

8 Only after Serco made the decision to eliminate his position did Sanocki, on December 5,  
9 2006, call Serco's Ethics Hotline to notify the company about the potentially improper political  
10 campaign contribution. Serco promptly began an investigation regarding Sanocki's report.

11 The next day, December 6, 2006, Sanocki went out on leave stating he was seeing a  
12 chiropractor and was wearing a back brace. He said that he was unsure when he could resume  
13 working. Defendant Raquel Sanchez sent him a leave of absence packet which he was to  
14 complete and submit to a third party administrator, Matrix, who was solely responsible for  
15 decisions regarding leaves of absence. Despite two reminders from Sanchez to submit his leave  
16 paperwork, Sanocki failed to submit the forms to Matrix and thus, Matrix initially denied his  
17 leave. Sanocki appealed the denial and Matrix later reversed its decision, granting Sanocki's  
18 leave.

19 Meanwhile, Serco's independent decision to eliminate Sanocki's position went into effect  
20 and, on February 6, 2007, Sanchez wrote a letter to Sanocki indicating that Serco had eliminated  
21 his position and that his status as a Serco employee would be terminated on February 9, 2007.

22 That same day, February 6, 2007, Defendant Keith Hulbert spoke to Sanocki and  
23 encouraged him to look at the company's website for open positions for which he was qualified.  
24 Sanocki indicated that he was still under the care of a chiropractor for his back and could not  
25 work, and did not know when he could return to work.

26 On May 10, 2007, Plaintiff filed his DFEH complaint alleging that he was fired on  
27 February 6, 2007 and denied family or medical leave because of his physical disability and in  
28 retaliation for protesting/participating in the campaign contribution investigation. He requested

1 an immediate right to sue letter, which the DFEH issued on May 23, 2007. Sanocki then filed  
2 this lawsuit.

3 **3. LEGAL ISSUES**

4 **A. Plaintiff's Statement of Legal Issues**

5 1. Whether Defendant SERCO was motivated, in its decision to fire Plaintiff, by either  
6 his reports of illegal money laundering and campaign violations, or his request for Leave of  
7 Absence under the CFRA.

8 2. Whether Plaintiff's rights under the CFRA were violated;

9 3. Whether any Defendant caused Plaintiff to suffer adverse employment action  
10 ("retaliation") as a result of his reports of illegal money laundering and campaign violations, or  
11 his request for Leave of Absence under the CFRA; and

12 4. Whether any Defendant caused Plaintiff to suffer severe emotional distress.

13 **B. Defendant's Statement of Legal Issues**

14 Based on Plaintiff's above representation of its claims and potential claims, among the  
15 legal issues in this case are:

16 1. Whether Sanocki's termination was wrongful;

17 2. Whether Defendants violated a "public policy" in terminating Plaintiff;

18 3. Whether Defendants violated the California Family Rights Act by terminating  
19 Sanocki;

20 4. Whether Defendants discriminated against Sanocki;

21 5. Whether Defendants retaliated against Sanocki;

22 6. Whether Defendants caused Sanocki to suffer legally recognizable emotional  
23 distress.

24 **4. MOTIONS**

25 Plaintiff's counsel has indicated that he intends to file a motion to remand (which  
26 Defendants will oppose.) The parties have filed no prior or pending motions before this Court.  
27 Defendants anticipate that they may file a dispositive motion if the facts and law warrant it.  
28



1 **5. AMENDMENT OF PLEADINGS**

2 The complaint before this Court is Plaintiff's First Amended Complaint, filed in the  
3 Superior Court on August 10, 2007.

4 **6. EVIDENCE PRESERVATION**

5 Both parties have taken steps to preserve evidence relevant to the issues reasonably  
6 evident in this action, including preservation of any electronically recorded material.

7 **7. DISCLOSURES**

8 The parties intend to exchange their Initial Disclosures by October 1, 2008.

9 **8. DISCOVERY**

10 The parties exchanged written discovery prior to the removal of this case. Defendants  
11 began, but did not complete, Sanocki's deposition. Regarding the remaining discovery, the  
12 parties have agreed to the following discovery plan.

13 **A. Non-expert discovery**

14 Plaintiff intends to file a motion seeking an order compelling further discovery responses.  
15 Prior to removal, Plaintiff filed in the state court action a motion to compel further discovery  
16 responses. That motion was originally set for hearing on May 21, 2008, and was continued on  
17 Order of the Court to June 12, 2008. On May 8, 2008, Defendants filed an opposition to the  
18 motion. On May 30, 2008, 12 days before the motion was heard, Defendants removed this  
19 action.

20 Plaintiff intends to acquire documentation from third parties, and conduct depositions of  
21 principles. Plaintiff would like to undertake discovery over the next two months. Defendants  
22 object to conducting any discovery in light of Plaintiff's stated intention to file a motion to  
23 remand. Following receipt of the Court's ruling on any such motion, Defendants intend to  
24 complete Sanocki's deposition, which Defendants believe will require one seven-hour day of  
25 actual deposition time. Defendants will conduct additional depositions as necessary. If the  
26 circumstances warrant, Defendants anticipate that they will conduct one or more independent  
27 medical examinations to evaluate any emotional distress claimed by Sanocki.

Other than as described above, the parties do not propose any limitation on, or change in, the number of discovery requests or the duration of discovery, other than what the Federal and Local Rules already provide. The parties do not propose any limitation on the subject matter of discovery, other than what the Federal and Local Rules already provide.

**B. Expert discovery**

The parties may designate experts as necessary, and they may determine to depose each other's designated experts. The parties request that the Court consider setting deadlines for experts relating to damage issues after the time at which dispositive motions would be decided, so the parties can avoid the expense of damage experts if the case is disposed of via motion practice.

**C. Deadlines for completion of discovery**

Plaintiff proposes the following discovery deadlines:

Written discovery completed by: October 31, 2008

Depositions completed by: November 30, 2008

Experts (liability) deposed by: December 30, 2008

Experts (damages) deposed by: December 30, 2008

As Plaintiff's counsel has informed defense counsel that he intends to file a motion to remand this case to the Superior Court, Defendants request any discovery deadlines allow sufficient time for the remand motion to be decided before any discovery would come due.

Therefore, Defendants propose the following discovery deadlines:

Written discovery completed by: February 27, 2009

Depositions completed by: April 24, 2009

Experts (liability) deposed by: May 29, 2009

Experts (damages) deposed by: August 28, 2009

**9. CLASS ACTION**

Not applicable.

**10. RELATED CASES**

None known.



1 **11. RELIEF**

2 Plaintiff seeks the following in damages:

3 Compensatory and general damages in an amount according to proof; punitive damages  
4 against all defendants under Civ. Code §3294; injunctive relief pursuant to California  
5 Government Code Section 12965(b)(3), including, without limitation, a requirement that  
6 Defendants SERCO GROUP PLC, and SERCO, INC. DE conduct training for all employees,  
7 supervisors, and management on the requirements of the Fair Employment and Housing Act  
8 ("FEHA"), the rights and remedies of those who allege a violation of the FEHA, and the  
9 employer's internal grievance procedures; statutory attorneys' fees and costs; prejudgment and  
10 post-judgment interest according to any applicable provision of law, according to proof; and  
11 costs of suit.

12 Defendant anticipates challenging Plaintiff's alleged damages on several grounds,  
13 including failure to mitigate and Plaintiff's own conduct resulting in his alleged damages.

14 **12. SETTLEMENT AND ADR**

15 The parties have engaged in informal settlement discussions; as yet unsuccessful.  
16 Defendants have agreed to participate in private mediation. Plaintiff has agreed to Court  
17 sponsored mediation under ADR Local Rule 6.

18 **13. CONSENT TO MAGISTRATE FOR ALL PURPOSES**

19 The parties do not consent to a magistrate judge.

20 **14. OTHER REFERENCES**

21 Not applicable.

22 **15. NARROWING OF THE ISSUES**

23 At this time, it is unknown whether issues can be narrowed.

24 **16. EXPEDITED SCHEDULE**

25 Plaintiff consents to an expedited schedule at this time.

26 Defendants do not consent to an expedited schedule at this time.

27 **17. SCHEDULING**

28 See section 8(C) above.

1 Plaintiff proposes a dispositive motion hearing cutoff of December 30, 2008.

2 Defendants propose a dispositive motion hearing cutoff of July 31, 2009, and a trial date  
3 of November 2, 2009. Defense counsel has another trial currently scheduled to begin October  
4 14, 2008.

5 **18. TRIAL**

6 The parties anticipate that the trial will last 7-10 days.

7 **19. DISCLOSURE OF NON-PARTY INTERESTED ENTITIES OR PERSONS**

8 None known.

9 **20. MATTERS THAT MAY FACILITATE THE DISPOSITION OF THIS MATTER.**

10 None known at this time.

11 DATED: September 3, 2008

LAW OFFICES OF DAVID S. SECREST  
A Professional Corporation

13  
14 By /s/ David S. Secrest  
David S. Secrest  
Attorneys for Plaintiff  
15 TIMOTHY SANOCKI

16 DATED: September 3, 2008

SEYFARTH SHAW LLP

18 By /s/ Adrienne E. Nelson  
Adrienne E. Nelson  
Attorneys for Defendants  
19 SERCO GROUP PLC, SERCO, INC.,  
20 IMPROPERLY SUED AS SERCO, INC.  
21 DE; RAQUEL SANCHEZ; KEITH  
22 HULBERT; AND MIKE HENRY  
23  
24  
25  
26  
27  
28

**CASE MANAGEMENT ORDER**

The Case Management Statement and Proposed Order is hereby adopted by the Court as the Case Management Order for the case and the parties are ordered to comply with this Order.

The following deadlines will apply:

Written discovery completed by:

Depositions completed by:

Experts (liability) deposed by:

Experts (damages) deposed by:

Dispositive motion hearing cutoff:

Trial:

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Hon. Marilyn Hall Patel